

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**CHESTER MITCHELL,**

**Plaintiff,**

**vs.**

**No. CIV 03-00061 RLP/LCS**

**MIKE BRISENO,**

**Defendant.**

**PLAINTIFF'S SECOND MOTION FOR A MISTRIAL**

Plaintiff Chester Mitchell, by and through his attorney, Joe M. Romero, Jr., hereby moves the Court to Order a mistrial based on improper statements made in closing argument. As grounds therefore, Plaintiff states:

During closing arguments, counsel for the defendants, Gregory Pelton, made direct reference to charges which had been dismissed, stating that they were dismissed because there was no evidence to support them. Dismissed claims are not permitted to be disclosed to the jury.

WHEREFORE, Plaintiff respectfully requests that this Court Order a mistrial.

Respectfully submitted,

**(Electronically Filed)**

By:

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Joe M. Romero, Jr.  
Attorney for Plaintiff  
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(505) 224-9554 (facsimile)

I hereby certify that a true and correct copy of the foregoing pleading was faxed and mailed to opposing counsel, Gregory V. Pelton, Pelton & Associates PA, 4300 Carlisle NE #4, Albuquerque, NM 87107-4827, (505) 884-6860 on Monday, December 13, 2004.

**(Electronically Filed)**

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Joe M. Romero, Jr.